

## ANALYSIS OF AMENDED BILL

Author: Leach Analyst: Kristina North Bill Number: AB 149  
Related Bills: See Legislative History Telephone: 845-6978 Amended Date: May 18, 1999  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Long-Term Care Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED \_\_\_\_\_ STILL APPLIES.

☒ OTHER - See comments below.

### SUMMARY OF BILL

Under the Personal Income Tax Law, this bill would allow a credit equal to the amount paid or incurred by a taxpayer for the cost of long-term care or long-term care insurance coverage for any family member of the taxpayer.

### SUMMARY OF AMENDMENT

The May 18, 1999, amendment replaces "The Family Choice Child Care Act of 1999" and related child care credit with a credit for long-term care or long-term care insurance coverage.

### EFFECTIVE DATE

This bill would apply to taxable years beginning on or after January 1, 1999.

### LEGISLATIVE HISTORY

AB 864 (1999); SB 546 (1995/1996) (would have allowed a tax credit for long-term care insurance coverage, died in committee)

### SPECIFIC FINDINGS

**Current federal and state laws** allow a tax deduction for medical expenses, including expenses of necessary qualified long-term care services prescribed by a licensed care professional or certain premiums for long-term care insurance.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	<u>X</u> PENDING

Department Director

Date

Gerald Goldberg

5/28/1999

These expenses are deductible only to the extent they exceed 7.5% of the taxpayer's adjusted gross income (AGI).

Under **current federal and state laws**, an employer's contribution to employee health plans (including long-term care insurance coverage) are not includable in an employee's gross income, and such contributions are deductible by the employer as an ordinary and necessary trade or business expense.

**Neither federal nor state law** currently allows a credit for the costs paid or incurred by a taxpayer for long-term care or long-term care insurance coverage.

**Current federal and state tax law** define "dependent" as the taxpayer's son or daughter (or descendant of either), stepson, stepdaughter, brother, sister, stepbrother, stepsister, father or mother (or ancestor of either), stepfather, stepmother, niece, nephew, aunt, uncle, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law or an individual whose principal place of abode was that of the taxpayer and who is a member of the taxpayer's household, and for whom the taxpayer provides over half of his or her support.

**Current federal law** allows an increased standard deduction if the taxpayer and/or the taxpayer's spouse are 65 years of age or blind. Federal law also allows taxpayers to claim exemptions for themselves, their spouses, and their dependents as deductions from AGI. The increased standard deduction varies depending on whether both the taxpayer and the spouse are 65 years of age or blind, while the exemption amount is \$2,700 for 1998.

**Current state law** provides various exemption credits against tax, including a personal exemption and exemptions for dependents, blind persons and individuals 65 or older. Unlike federal law, these exemptions are not deductions from AGI but are a credit against the "net tax." The exemption amount for the personal exemption and exemptions for a blind person or an individual 65 or older is \$70 for 1998. The exemption amount for a dependent is \$253 for 1998.

**Current state law**, under the Welfare and Institutions Code, defines "long term care" as a coordinated continuum of preventive, diagnostic, therapeutic, rehabilitative, supportive, and maintenance services addressing the health, social, and personal needs of individuals who have restricted self-care capabilities. Services must be designed to recognize the positive capabilities of the individual and maximize the potential for the optimum level of physical, social, and mental well-being in the least restrictive environment with emphasis on seeking service alternatives to institutionalization. Services may be provided by formal or informal support systems, including a licensed nursing facility, adult residential care, residential facility for the elderly, or home and community-based services, and may be continuous or intermittent.

**Current federal and state tax law** define "long-term care services" as necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services required by a chronically ill individual, as defined. Maintenance and personal care services means any care the primary purpose of which is the provision of needed assistance to a chronically ill individual.

**This bill** would allow an individual taxpayer to claim a credit, up to \$1,000 per family member, equal to the amount paid or incurred during the taxable year for the long-term care or the purchase of long-term care insurance coverage for a family member of the taxpayer.

**This bill** defines:

- ♦ "family members" as the taxpayer, taxpayer's spouse and all individuals described as dependents under federal tax law; and
- ♦ "long-term care" as having the same meaning as described in the Welfare and Institutions Code.

**This bill** would provide that a taxpayer could carry over any excess credit until it is exhausted.

Since this credit does not specify otherwise, the general rules in state law applicable to the division of credits would apply, and this credit would not reduce regular tax below tentative minimum tax for purposes of alternative minimum tax.

### **Policy Considerations**

This bill allows a 100% credit for qualified expenses, up to a limit of \$1,000 per family member. As a matter of state tax policy, a 100% credit is unprecedented.

To the extent that expenses for long-term care and long-term care insurance may qualify as medical expenses, this bill could allow a credit for the same expenses that are used to claim a deduction. However, disallowing or reducing the deduction by the amount of the credit would create a federal-state difference in the form of an adjustment, complicating the preparation of the state income tax return.

This bill does not limit the credit to care provided in this state.

This bill does not specify a repeal date or limit the number of years for the carryover. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. However, even if a repeal date were added, because unlimited credit carryover is allowed, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover limit since experience shows credits are typically used within eight years of being earned.

### **Implementation Considerations**

The department has identified the following implementation considerations.

- ♦ This bill does not require verification of the long-term care. The author may wish to consider requiring the long-term care facility or in-home care giver to provide the taxpayer with verification, specifying the taxpayer, the amount of money received to pay for the long-term care, the name of the individual receiving the long-term care and for what time period the money was applied.

- ◆ This bill uses a different definition of long-term care than that in current federal and state tax law regarding the deductibility of long-term care services and long-term care insurance. These differences may confuse taxpayers and complicate implementation of this credit.

Department staff is available to assist in the resolution of these or any other considerations identified.

## **FISCAL IMPACT**

### **Departmental Costs**

With the resolution of the implementation considerations, this bill should not significantly impact the department's costs.

### **Tax Revenue Estimate**

This bill allows a credit in an amount equal to the costs paid or incurred by the taxpayer for long-term care or long-term care insurance, not to exceed \$1,000 per family member. Eligible costs could include payments for nursing home care provided, in-home care provided and long-term care insurance costs.

Effective After January 1, 1999 (losses in millions)		
1999/2000	2000/2001	2001/2002
-\$930	-\$845	-\$890

The estimate for the first fiscal year above includes all of the 1999 tax year impact plus 15% of the 2000 year impact.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

### **Tax Revenue Discussion**

#### **(1) Nursing Home Care Costs**

Data for 1998 from MetLife Statistical Bulletin indicates average daily nursing home cost for California is \$156 per day (\$57,000) annually. PERS (California) statistics indicates average nursing home care costs of \$130 per day (\$47,000 annually). The lower average is used for this analysis.

Information for the nation (U.S. National Center for Health Statistics) indicates 1.73 million nursing and related care facility resident patients in the U. S. in 1994.

For purposes of a revenue estimate for these payments, based on California's population relative to total population, 12% was attributed for California's share of the nation (1.73 million nationally x 12% attributed to California x \$1,000 maximum credit = \$208 million).

**(2) Home Care Costs**

PERS (California) statistics indicates average home care cost of \$20,000 annually.

Information for the nation (U.S. National Center for Health Statistics) indicates 1.95 million home health and hospice care patients in the U. S. in 1994.

For purposes of a revenue estimate for these payments, based on California's population relative to total population, 12% was attributed for California's share of the nation (1.95 million nationally x 12% attributed to California x \$1,000 maximum credit = \$234 million).

**3) Long-Term Care Insurance Premiums**

Information for the nation (National Association of Insurance Commissioners) indicates in 1997 2,945,612 individuals had long-term health care insurance. Average yearly premiums for the nation were:

<u>Age at Purchase</u>	<u>Yearly Premium</u>
45	\$ 746
50	\$ 954
55	\$1,255
60	\$1,719
65	\$2,580
70	\$3,723
75	\$6,734

PERS (California) member statistics indicate 116,659 active and 213 disabled members on June 30, 1998, and the average premium of \$101 per month (\$1,212 annually).

For purposes of a revenue estimate for these payments, based on California's population relative to total population, 12% was attributed for California's share of the nation (3 million insured nationally x 12% attributed to CA x \$1,000 maximum credit = \$360 million).

The above impacts for the 1999 tax year total on the order of \$800 million in tax reductions.

**BOARD POSITION**

Pending.